

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

**Joseph H. Matthews III**

Serial No.: 10/825,299

Filed: April 16, 2004

For: User Friendly Remote System Interface

Atty. Docket No.: 003797.00923

Group Art Unit: 2179

Examiner: Huynh, Ba

Confirmation No.: 7755

**DECLARATION UNDER 37 C.F.R. § 1.131**U.S. Patent and Trademark Office  
Commissioner for Patents

Sir:

We, Joseph H. Matthews III, David A. Barnes, and David Wm. Plummer, hereby declare that:

- 1) We are named as inventors of the above-identified application.
- 2) We were employed by Microsoft Corporation (Microsoft) during conception and development of the inventions at least until the filing date of the above-identified application.
- 3) Microsoft is the assignee of the above-identified application.
- 4) Prior to August 25, 1997, the filing date of U.S. Patent No. 5,990,890, we conceived of the invention recited in claims 58-82.
- 5) From just prior to August 25, 1997, until our constructive reduction to practice on August 27, 1997, we diligently pursued the preparation and filing of the above-identified application with the United States Patent & Trademark Office.
- 6) Conception of at least the invention of claims 58-82 is evidenced by the draft application and figures attached herewith as Exhibit A. The draft application and

figures were prepared by Christopher Glembocki and Bradley Wright, patent attorneys with the law firm Banner & Witcoff, Ltd. in Washington, DC, based on information provided by us to them. Several comments inserted into the draft application by Mr. Wright and Mr. Glembocki have been redacted from Exhibit A, we are told, to preserve attorney-client privilege.

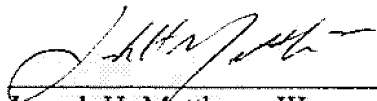
- 7) The draft application and figures of Exhibit A were prepared prior to August 25, 1997, as evidenced by the correspondence sent from Mr. Glembocki and Mr. Wright, via Federal Express, to the Microsoft Patent Group Docketing Department, which included the draft application and figures. The cover letter of this correspondence is attached herewith as Exhibit B. The dates redacted from the cover letter in Exhibit B are prior to the August 25, 1997.
- 8) Conception of independent claim 58 prior to August 25, 1997, is supported by Exhibit A. For example, Figures 6 and 10 of Exhibit A disclose generating and receiving a signal for displaying a menu, a signal indicating a numeric selection, and a signal corresponding to an application specific function, wherein an application is launched and a function pertinent to that application is performed if the system is operating in a first mode. The features of independent claim 58 are further supported by page 19, lines 7-17, and page 23, line 14 to page 24, line 7 of the draft specification, and by claim 19 on pages 40-41 of the draft application of Exhibit A.
- 9) Conception of claims 59-62 prior to August 25, 1997, is supported by Exhibit A. For example, claims 20-23 on pages 41-42 of the draft application of Exhibit A disclose features corresponding to the features recited in claims 59-62.

- 10) Conception of claims 63 and 66 prior to August 25, 1997, is supported by Exhibit A. For example, page 9, lines 4-12 of Exhibit A discloses switching modes and displaying an interface based on the input device used to control the system.
- 11) Conception of claims 64 and 68 prior to August 25, 1997, is supported by Exhibit A. For example, page 23, lines 9-13 of Exhibit A discloses displaying different menus and menu options based on the mode of the system and/or the currently running application.
- 12) Conception of claim 65 prior to August 25, 1997, is supported by Exhibit A. For example, page 6, line 17 to page 7, line 6 of Exhibit A discloses performing different functions with the same menu buttons depending on the currently running application.
- 13) Conception of claim 67 prior to August 25, 1997, is supported by Exhibit A. For example, page 16, lines 1-11 and page 22, lines 1-11 of Exhibit A disclose a theater mode with an enhanced viewing display.
- 14) Conception of independent claims 69 and 76 prior to August 25, 1997, is supported by Exhibit A. For example, Figure 8 and page 21, lines 5-17 of the draft specification of Exhibit A disclose receiving a start menu request and an accelerator key signal, executing a task based on the accelerator key, displaying a menu after the application is executed.
- 15) Conception of claims 70, 73, 77, and 80 prior to August 25, 1997, is supported by Exhibit A. For example, page 17, lines 5-11 of Exhibit A discloses launching tasks based on the selection of numeric accelerators.

- 16) Conception of claims 71, 75, 78, and 82 prior to August 25, 1997, is supported by Exhibit A. For example, page 6, line 16 to page 7, line 6 of Exhibit A discloses receiving signals to perform a function dependent on the currently running application.
- 17) Conception of claims 72 and 79 prior to August 25, 1997, is supported by Exhibit A. For example, page 16, line 13 to page 17, line 4 of Exhibit A discloses displaying a start menu including a list of available applications.
- 18) Conception of claims 74 and 81 prior to August 25, 1997, is supported by Exhibit A. For example, page 19, lines 7-17 of Exhibit A discloses launching an application in response to the selection of a numeric accelerator.
- 19) Prior to August 25, 1997, Mr. Glembocki and Mr. Wright of Banner & Witcoff, Ltd. forwarded the draft application and figures of Exhibit A to us for our review.
- 20) Diligent pursuit of preparation and filing of the above-identified patent application from a date just prior to August 25, 1997, until the filing and constructive reduction to practice of the above-identified patent application is evidenced by the email and correspondence attached herewith as Exhibit C. Exhibit C is a copy of a facsimile transmittal dated August 26, 1997, forwarding an email from co-inventor David Plummer dated August 25, 1997, to Mr. Glembocki. The correspondence of Exhibit C includes comments and clarifications used to finalize and prepare the above-identified patent application for filing.
- 21) On August 27, 1997, the above-identified patent application was filed in the U.S. Patent and Trademark Office.

- 22) The preparation of the draft application and correspondence with our patent attorneys demonstrate conception of the invention prior to August 25, 1997, and diligence from a date just prior to August 25, 1997, until the filing and constructive reduction to practice of the above-identified patent application.
- 23) All acts referred to in this Declaration were performed either in the United States, or in a WTO member country.
- 24) Exhibits A-C, have not been altered since they were originally prepared except for the redaction of references to dates and irrelevant or extraneous information.
- 25) We declare under penalty of perjury under the law of the United States of America that statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

  
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Joseph H. Matthews III

1.21.08  
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Date

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David Wm. Plummer

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Date

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David A. Barnes

\_\_\_\_\_  
Date

- 22) The preparation of the draft application and correspondence with our patent attorneys demonstrate conception of the invention prior to August 25, 1997, and diligence from a date just prior to August 25, 1997, until the filing and constructive reduction to practice of the above-identified patent application.
- 23) All acts referred to in this Declaration were performed either in the United States, or in a WTO member country.
- 24) Exhibits A-C, have not been altered since they were originally prepared except for the redaction of references to dates and irrelevant or extraneous information.
- 25) We declare under penalty of perjury under the law of the United States of America that statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

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Joseph H. Matthews III

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Date

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David Wm. Plummer

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Date

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/David A. Barnes/  
David A. Barnes

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/02/15/08  
Date